

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VITALY S. PALAMARACHOUK, :
:
Plaintiff, :
:
v. : Civ. Action No. 08-080-JJF
:
SECRETARY MICHAEL :
CHERTOFF, EMILIO :
GONZALEZ, PAUL NOVAK, and:
ROBERT S. MUELLER, III, :
:
Defendants. :

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Defendants' Motion To Dismiss is **GRANTED in part** and **DENIED in part** as follows (D.I. 9):

A. The Motion to Dismiss for Lack of Subject Matter Jurisdiction pursuant to Rule 12(b)(1) is **DENIED** as to the claims raised under the Mandamus Act and the Administrative Procedures Act and **GRANTED** as to claims raised under the Declaratory Judgment Act.

B. The Motion to Dismiss for Failure to State a Claim upon which Relief may be Granted pursuant to Rule 12(b)(6) is **DENIED**.

2. Based upon the representations by the parties, the claim against Robert S. Mueller, Director of the Federal Bureau of Investigation is **DISMISSED** as moot.

3. Defendants' Motion To Stay is **GRANTED** as unopposed.

(D.I. 14.)

4. Plaintiff's Motion For Summary Judgment is **DENIED** as **premature** with leave to renew. (D.I. 13.)

5. Defendants shall file an answer to the Complaint within twenty-one days from the date of this Order.

6. Motions For Summary Judgment motions shall be filed by no later than **August 20, 2008**. Responses shall be filed by no later than **September 2, 2008**. Replies shall be filed by no later than **September 9, 2008**.

July 30, 2008
DATE

Joseph J. Tamm
UNITED STATES DISTRICT JUDGE